

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1 US ARMY CORPS OF ENGINEERS

2 NORTHWESTERN DIVISION

3 OMAHA, NEBRASKA

4

5 IN RE: MISSOURI RIVER STUDY

6

7 TRANSCRIPT OF PROCEEDINGS

8 BE IT REMEMBERED that on Tuesday, November 6,

9 2001, the US Army Corps of Engineers met in a

10 Public Hearing at 7:00 p.m., at the Hilton

11 Hotel, 112th Street, Kansas City, Missouri, at

12 which time the above entitled cause came on

13 for hearing before Colonel Donald R. Curtis,

14 Hearing Officer.

15

16 A P P E A R A N C E S

17

18 CHAIRMAN: COLONEL DONALD R. CURTIS

19 TEAM MEMBERS: LARRY CIESLIK
ROY MCALLISTER
20 DOUG LATKA
PATTI LEE
21 ROSEMARY HARGRAVE
PAUL JOHNSON
22 RICHARD MOORE
JODY FARHAAT
23 JOHN LARANDEAU

24

25

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1 I N D E X

2

3	SPEAKER	PAGE NUMBER
4	MATT ROONEY	12
5	AMY JORDAN WOODEN	12
6	MARK COULTER	13
7	STEPHEN MAHFOOD	13
8	DALE FRINK	21
9	BILL BRYAN	21
10	TAD KARDIS	26
11	NELSON HEIL	32
12	TIM BRINKER	33
13	JOHN REDDY	35
14	CHARLES SCOTT	35
15	RICK HAYES	36
16	ELLEN DUKE	37
17	MICHAEL WILSON	38
18	RONALD MCNEALL	40
19	ROGER CLARK	44
20	STEVE KIDWELL	45
21	LANNY MENG	45
22	STEVE EWERT	46
23	ROBERT VINCZE	49
24	DAN CASSIDY	50
25	BOB SHERRICK	50

ROBERTS & ASSOCIATES BY TOM ROBERTS, RPR, CCR

1	INDEX CONTINUED	
2	SPEAKER	PAGE NUMBER
3	JEFFREY MCFADDEN	50
4	FRANK LIES	54
5	MARY LAPPIN	54
6	BILL GRIFFITH	55
7	KAREN UHLENHUTE	60
8	RON GIBSON	64
9	COLLEEN NUNNELLY	64
10	LINDA HANLEY	66
11	JAMIE MIERAU	68
12	CHARLES BENJAMIN	69
13	JOE LAMOTHE	69
14	TOM HANLEY	70
15	FRANK POGGE	73
16	TOM WATERS	73
17	M.A. ALMAI	74
18	JANET MERSHON	74
19	LINDA WATERS	77
20	HAL SWANSY	78
21		
22	HEARING OPENED	4
23	OPENING REMARKS	4
24	VIDEO PRESENTATION	6
25	HEARING CLOSED	79

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1 P R O C E E D I N G S

2 (Hearing commenced at 7:00 p.m.)

3

4 HEARING OFFICER: Ladies and

5 gentlemen if I may have your attention.

6 Welcome to the this evening's comments on the

7 Revised Draft Missouri River Master Manual.

8 My name's Colonel Donald Curtis, I'm commander

9 of the Kansas City District, Corps of

10 Engineers.

11 With me tonight are members of the team

12 that prepared the Revised Draft Environmental

13 Impact Statement and I'll call your name if

14 you folks would please stand up and let

15 everyone see where you're sitting or

16 standing. Mr. Larry Ceislik. Larry, okay.

17 Rose Hargrave, she's at the desk outside. Roy

18 McAllister, Roy's in the back. Miss Patti

19 Lee, at the doorway. John Larandean. Mr.

20 Paul Johnson. Rick Moore, time keeper. Doug

21 Latka, in the back. And from the Western Area

22 Power Administration, Mr. Nick Staus.

23 This is the ninth of fourteen sessions

24 from Helena to New Orleans. This afternoon we

25 conducted an open house workshop, I hope many

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1 of you were able to stop by and study the
2 displays, pick up handouts and talk with the
3 staff. If you weren't, please take a few
4 minutes this evening to visit the displays
5 that are set up in the back of the room. Our
6 agenda tonight will start with a short video.
7 There's a welcome followed by a description of
8 the projects, the features of the Revised
9 Draft Environmental Impact Statement and the
10 major impacts.

11 Now we want everyone to have a common
12 understanding of the Revised Draft
13 Environmental Impact Statement. Copies of the
14 summary and handouts as well as the entire
15 document are available at libraries and
16 project offices through the bases. Also, you
17 can get a copy by writing to us or off of our
18 web sight. The addresses are available in the
19 back of the room.

20 Following the video, I will give a little
21 further description of the comment process to
22 be used tonight and then take your comments.
23 We'll stay as long as necessary for everyone
24 to be heard. And with that we'll begin.
25 Paul.

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1 (Videotape started at 7:05 p.m.,
2 and concluded at 7:35 p.m.).

3
4 HEARING OFFICER: Paul is not a
5 dam operator.

6 MR. JOHNSON: We probably wore it
7 out.

8 HEARING OFFICER: Okay. We'll
9 proceed, Paul.

10 This hearing will come to order. Good
11 evening ladies and gentlemen. Again I am
12 Colonel Donald Curtis, the Kansas City
13 District Commander and I will be your hearing
14 officer for tonight's session.

15 Our purpose this evening is to conduct a
16 public hearing on proposed changes to the
17 guidelines for the Missouri River mainstem
18 system's operation.

19 Before I proceed, I want to go over a few
20 of the rules for the evening. This hearing is
21 being recorded by Mr. Thomas Roberts of
22 Roberts and Associates. He'll be taking a
23 verbatim testimony that will be used as the
24 basis for the official transcript and record
25 of this hearing. This transcript with all

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1 written statements and other data will be made
2 part of the administrative record for action.
3 Persons who are interested in obtaining a copy
4 of the transcript for this session or any
5 other session may do so. Persons interested
6 in receiving a copy, please indicate this on
7 their cards available at the table at the
8 entrance. Also, if you're not on our mailing
9 list and desire to be, please indicate this on
10 the card.

11 In order to conduct an orderly hearing,
12 it is essential that I have a card from anyone
13 desiring to speak giving your name and who you
14 represent. If you desire to make a statement
15 and have not filled out a card, please raise
16 your hand and we will furnish a card to you.

17 I don't see any hands. The primary
18 purpose of tonight's session is to help ensure
19 that we have all the essential information
20 that we will need to make our decision on
21 establishing guidelines for future operations
22 of the mainstem system and that this
23 information is accurate. This is your
24 opportunity to provide us with some of that
25 information. We view this as a very important

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1 opportunity for you to have influence on the
2 decision. Therefore, I'm glad to see that
3 you're here tonight.

4 I want to you remember that tonight's
5 forum is to discuss the proposed changes to
6 the operation of the Missouri River mainstem
7 system that are analyzed in the recently
8 released Revised Draft Environmental Impact
9 Statement. We should concentrate our efforts
10 this evening on issues specific to that
11 decision and should refrain from discussing
12 the Corps of Engineers in general.

13 It is my intention to give all interested
14 parties an opportunity to express their views
15 on the proposed changes freely, fully and
16 publicly. It is in the spirit of seeking full
17 disclosure and providing an opportunity for
18 you to be heard regarding the future decision
19 that we have called this hearing. Anyone
20 wishing to speak or make a statement will be
21 given a opportunity to do so.

22 The Missouri River mainstem system
23 consist of Corps of Engineers constructive and
24 operated projects so officially that makes us
25 the project proponent. However, it is our

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1 intention that the final decision on future
2 operational guidelines for these projects
3 reflect a plan that considers all views of all
4 interests, focuses on contemporary and future
5 needs, served by the mainstem system and meets
6 requirements established by Congress.

7 As hearing officer, my role and
8 responsibility is to conduct this hearing in
9 such a manner as to ensure full disclosure of
10 all relevant facts bearing on the information
11 that we currently have before us.

12 If information is inaccurate or
13 incomplete, we need to know that and you can
14 help us make that determination.

15 Ultimately, the final selection of a plan
16 that provides a framework for future
17 operations of the mainstem system will be
18 based on benefits that may be expected to
19 accrue from a proposed plan as well as
20 probable negative impacts including cumulative
21 impacts. This includes significant social
22 economic and environmental factors. Should
23 you desire to submit a written statement and
24 do not have it prepared, you may send it to
25 the U.S. Army Corps of Engineers, Northwestern

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1 Division, 12565 West Center Road, Omaha,
2 Nebraska, 68144-3869, Attention, Missouri
3 River Master Manual. You may also fax your
4 comments to area code 402-697-2504 or e-mail
5 your comments to mastermanual@usace.army.mil.
6 The official record for this hearing will be
7 open until 28 February 2002. To be properly
8 considered, your written statement must be
9 postmarked by that date.

10 Before I begin taking testimony I would
11 like to say a few words about the order and
12 procedure that will be followed.

13 When we call your name, please come
14 forward to the lectern, state your name and
15 address and specify whether or not you're
16 representing a group, agency or organization
17 or if you're speaking as an individual. You
18 will be given five minutes to complete your
19 testimony. If you're going to read a
20 statement, we would appreciate it if a copy
21 will be provided to the court reporter prior
22 to speaking so your remarks will not have to
23 be taken down verbatim. After all statements
24 have been made time will be allowed for any
25 additional remarks. During the session, I may

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1 ask questions to clarify points for my own
2 satisfaction. Since the purpose of this
3 public hearing is to gather information which
4 will be used in evaluating the proposed plan
5 or alternatives to it and since open debate
6 between members of audience will be
7 counterproductive to this purpose, I must
8 insist that all comments be directed to me,
9 the hearing officer.

10 With the exception of public officials or
11 their representatives who will speak first,
12 speakers will be given an equal opportunity to
13 comment. Please remember speakers will be
14 limited to five minutes and will be using a
15 lighted timer. When the yellow light comes on,
16 it means you have two minutes of time
17 remaining. When the red light comes on, your
18 five minutes are up. No portion of unused
19 time allotted to each speaker may be
20 transferred to another presenter. The purpose
21 of the hearing is to permit members of public
22 an equal opportunity to concisely present
23 their views, information or evidence.

24 If we allow one speaker to stockpile all
25 the unused time, the ultimate result may be

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1 the hearing record will be unfairly tainted
2 and others waiting to speak may be discouraged
3 from doing so. I will now call the names of
4 those who have submitted cards beginning with
5 elected officials.

6

7 MR. MOORE: Mr. Roney.

8 HEARING OFFICER: Mr. Matt
9 Roney.

10

11 (Whereupon Mr. Roney read a prepared
12 statement, which is attached to the
13 transcript.)

14

15 HEARING OFFICER: Thank you, Mr.
16 Roney.

17 MR. MOORE: Amy Jordan Wooden.

18

19 (Whereupon Ms. Wooden read a prepared
20 statement, which is attached to the
21 transcript.)

22

23 HEARING OFFICER: Thank you, Ms.
24 Wooden.

25 MR. MOORE: Mark Coulter.

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1

2

(Whereupon Mr. Coulter read a prepared

3

statement, which is attached to the

4

transcript.)

5

6

HEARING OFFICER: Thank you, Mr.

7

Coulter.

8

MR. MOORE: Stephen Mahfood.

9

MR. MAHFOOD: Good evening,

10

Colonel, good to see you again.

11

I want to thank you for this opportunity,

12

and my name is Steve Mahfood, by the way,

13

Director of Missouri Department of Natural

14

Resources, and I'm here representing the State

15

of Missouri.

16

I want to thank you for this opportunity

17

to share our position with you this evening.

18

This issue is of supreme importance not only

19

to Missouri, but to the entire nation. I want

20

to thank you for holding the hearings in the

21

basin and I think this is the right thing to

22

do, allow people the time and opportunity to

23

share how they feel about the various

24

proposals.

25

As Missouri continues to evaluate the

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1 newest data from the Corps, we will be looking
2 to ensure that the Missouri River remains a
3 river of many uses including recreation,
4 agriculture, fish and wildlife conservation,
5 navigation, water supply hydropower.

6 Balancing these interests of both the upstream
7 and the downstream reaches of the river is
8 absolutely essential to what we think is
9 achieving the goal.

10 Because of the vital importance of these
11 issues, Missouri maintains that all decisions
12 must be based on sound science. We strongly
13 believe that if all sides of this discussion
14 commit themselves to adherence to solutions
15 founded on valid scientific evaluation, that
16 it will enable us to make substantial progress
17 on resolving all the issues that have been
18 debated for so many years. Contrary to many
19 representations, Missouri is firmly committed
20 to improving the ecological health of the
21 Missouri River. However, we strongly believe
22 there are ways to achieve these benefits while
23 still protecting and enhancing the lives and
24 livelihoods of Missourians who live on or near
25 the banks of the Missouri River.

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1 Significant concern to Missourians is
2 that many of the proposals in the Revised
3 Draft Environmental Impact Statement include
4 plans to increase total system storage in the
5 upper lakes. We have apprehensions that such
6 changes would significantly reduce the ability
7 of the Corps to ensure that the river is
8 managed to the benefit of all residents of the
9 basin.

10 We strongly feel that the Corps must
11 maintain adequate flexibility to respond to a
12 wide variety of situations both anticipated
13 and unforeseen. We believe these proposed
14 changes to storage levels in the upper lakes
15 would limit the Corps' capacity to perform its
16 statutorily mandated role.

17 Missouri is further concerned that these
18 changes to total system storage could
19 eventually restrict the use of water by
20 downstream states and thus detrimental to the
21 future welfare of Missourians. We strongly
22 oppose any plan that would reduce the amount
23 of water usable and released to downstream
24 states.

25 Furthermore, and lacking the importance

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1 of the endangered species in this discussion,
2 Missouri also suggests that the effects of
3 increased storage of water in the upper lakes
4 on endangered species be examined.
5 Comprehensive data regarding the impact of
6 high levels of the upper lakes on endangered
7 species is not currently available. We
8 believe this information should be included in
9 the dialogue.

10 The second key component of many of the
11 current proposals is for a variety of reduced
12 flows from Gavins Point Dam in the summer.
13 The flow levels and timing of the current
14 proposals defer significantly from the
15 historic hydrograph. Missouri recognizes that
16 a properly timed and proportioned reduced
17 summer flow will likely benefit some sections
18 of the river's ecosystem. We support efforts
19 to achieve a flow level that will help these
20 species while also ensuring that the long-term
21 viability of river commerce on the Missouri
22 River is not degraded. Missouri believes that
23 such a flow level exists.

24 Our state has advocated the reduce flow
25 of 41,000 cubic feet a second from Kansas City

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1 from August 1st through September 15th. The
2 goal of this proposal is to accomplish these
3 flow conditions approximately three of every
4 five years in order to balance the interest of
5 the endangered species, recreation and the
6 continued support of other uses of the river.

7 Proposals to depart from current
8 operations must also consider the effect of
9 any changes on Mississippi River navigation.
10 The entire inland waterway system depends on
11 supplemental flows from Missouri River into
12 the Mississippi. We do not support proposals
13 that are detrimental to the long-term
14 viability of navigation on Mississippi and
15 Missouri River system.

16 Finally, any reduced summer flow
17 alterations must be water neutral. As I said
18 before. Missouri will strenuously oppose
19 proposals that reduce the amount of usable
20 water released to downstream states.

21 A third key component of many of the
22 current proposals is the periodic spring rise
23 created by federal releases of additional
24 water from Gavins Point Dam during May.
25 Missouri opposes proposals for expanded spring

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1 releases.

2 We have serious concerns that current
3 proposals would increase flooding, result in
4 higher ground water levels and cause
5 inadequate drainage throughout the lower
6 basin. Additional spring releases could
7 potentially compound the effects of large
8 rainfall events downstream of Gavins Point
9 thereby increasing the risk of unanticipated
10 flow levels in downstream states.

11 The dangers of such a spring rise
12 increase because waters from Gavins Point Dam
13 takes approximately 10 days to reach St.
14 Louis. Spring flooding has had a significant
15 negative impact on Missouri agriculture, we
16 all know that. Missouri's agricultural
17 community must be a top priority in this
18 discussion. We will strive to ensure that
19 Missouri's agricultural community not just
20 along the Missouri River, but all through
21 Missouri remains viable and profitable.

22 Such concerns must be weighed against the
23 fact that the lower stretches of the Missouri
24 River including the entire 553 miles in
25 Missouri already receive a natural spring rise

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1 from tributary inflow.

2 This spring rise that's proposed would
3 have little or no impact on river species
4 living in the stretch of river within our
5 borders of the State of Missouri.

6 One additional issue that has
7 occasionally been lost because of the more
8 contentious nature of some of the other
9 proposals is the importance of habitat
10 improvement projects in restoring aquatic
11 diversity lost to the creation of upstream
12 lakes and channelization and bank
13 stabilization over the last 50 years.

14 Missouri believes that an active program
15 of habitat creation, restoration augmented by
16 alterations to late summer flows would
17 substantially assist the recovery of
18 endangered species. Our state has undertaken
19 a number of habitat improvement projects often
20 in concert with the Corps and we believe that
21 these cost effective and noncontroversial
22 efforts deserve significant support by the
23 federal government.

24 Finally, one issue of high importance to
25 our state which is not currently in any

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1 proposals but has been raised at various times
2 during this discussion is the possibility of
3 water transfers out of the Missouri River
4 basin. Missouri unequivocally opposes
5 out-of-basin transfers. Such transfers
6 constitute economic and ecological threats
7 given existing demands for water within the
8 basin and the need of species dependent on the
9 river for their survival.

10 In conclusion, Missouri is firmly
11 committed to restoring and protecting the
12 Missouri River and ensuring that the river is
13 managed for all citizens. I want to reiterate
14 the importance of basing all decisions on
15 sound scientific data and further urge that
16 all potential impacts and opportunities to
17 both the Missouri and Mississippi River
18 systems for each and every proposal be
19 considered.

20 There comes a time in all of this where
21 you can do things right or you can do the
22 right thing. We're asking you to do the right
23 thing.

24 Thank you for the opportunity to express
25 our position on these extremely important

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1 issues.

2 HEARING OFFICER: Thank you, Mr.

3 Mahfood.

4 MR. MOORE: Dale Frink.

5

6 (Whereupon Mr. Frink read a prepared

7 statement, which is attached to the

8 transcript.)

9

10 HEARING OFFICER: Thank you, Mr.

11 Frink.

12 MR. MOORE: Bill Bryan.

13 MR. BRYAN: My name is Bill

14 Bryan, I'm a deputy chief counsel for Missouri

15 Attorney General, Jay Nixon. Attorney General

16 Nixon asked me to be here tonight, he couldn't

17 be here, he had to sue somebody today. Nobody

18 in this room.

19 I'm glad to see we're all lightening up,

20 it looks like it's going to be a long

21 evening. And Attorney General Nixon would

22 want me to thank all of you for being here to

23 participate in this because this is democracy

24 in action so thanks for being here.

25 We have heard a lot over the years since

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1 this process has started about things like a
2 permanent flood, broken promises, the
3 contemporary needs of the Missouri River
4 basin. These are all very catchy, but
5 unfortunately somewhat misleading slogans that
6 are used by the upstream states and interests
7 to justify the profound change in water policy
8 evident in the Master Manual alternatives.
9 When we think of the big mainstem reservoirs
10 we think of flood control, water supply and
11 great walleye fishing. Meanwhile, the
12 upstream states have chosen to characterize
13 this valuable windfall as a permanent flood.
14 The Corps, however, has valued the
15 recreational benefits flowing from this
16 permanent flood at more than \$84 million per
17 year. That's not too shabby for a flood.
18 When it floods around here, Missourians lose
19 money, not make millions.

20 Starting with the stated value of \$84.7
21 million per year, the Master Manual
22 alternatives under consideration only increase
23 the permanent flood's payoff for recreation by
24 an average of about \$2.9 million per year.
25 That's only about a three and a half percent

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1 increase and that is less gain on average to
2 recreation than the \$3.6 million reduction in
3 flood control benefits under the same
4 alternatives that was described as
5 insignificant in Corps' slide show only a few
6 moments ago.

7 The net loss of one and a half million
8 dollars, the difference between the flood
9 control losses and recreational gains on
10 average, doesn't seem to meet the contemporary
11 needs of the basin to me, a Missourian.

12 The current water control plan provides
13 many additional benefits to downstream states
14 that don't even figure into this simple
15 calculation, but the point is not so much the
16 dollars and cents. One and a half million
17 dollars seems like a lot of money to me, but
18 relative to this process, it's not very much.

19 This is about the fact that change purely
20 for the sake of change doesn't make sense and
21 isn't mandated under the National
22 Environmental Policy Act or any other federal
23 law. Just as we need to preserve the flood
24 control benefits in Missouri, however, we need
25 to protect the native fish and wildlife that

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1 rely on river the river, too.

2 Of course the river didn't evolve the way

3 it has due solely to flow from Gavins Point

4 Dam, other actions have contributed to the

5 habitat problems we are now facing.

6 Structural changes, for example, were made to

7 change the train the river. These structural

8 improvements are essential to bank

9 stabilization and river commerce in accordance

10 to do a better job of repairing and

11 maintaining them. But we can also do more

12 through smart engineering and other steps to

13 improve the habitat along the river, and the

14 Corps, the Fish and Wildlife Service and the

15 State of Missouri need to take steps to

16 improve the habitat along the river through

17 smart engineering. By using common sense and

18 smart engineering, we can improve the habitat

19 and protect other uses as well and the Big

20 Muddy can truly a river of many uses.

21 While the Corps has relied on the U.S.

22 Fish and Wildlife Service to identify the

23 specific habitat attributes required to avoid

24 jeopardy to endangered species, the resulting

25 alternatives call for a spring rise and a low

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1 summer flow. But the historical records
2 reflect that the lower Missouri River here in
3 Missouri experiences a spring rise without any
4 increased release from Gavins Point.

5 The records also reveal that there is no
6 factual basis for a summer low flow or a split
7 navigation season based on the period of
8 record, 100 year period of records that the
9 Corps has analyzed. Moreover, the value of
10 these particular changes is entirely
11 speculative and unproven.

12 Under the circumstances, we support a
13 41,000 cubic foot per second low summer flow
14 at Kansas City from August 1st through
15 September 15th approximately every three out
16 of five years just as Mr. Mahfood pointed
17 out.

18 We do not support a spring rise from
19 Gavins Point because given the lengthy travel
20 time from Gavins Point to St. Charles and
21 weather forecasting uncertainties would make
22 flooding more likely here in Missouri. But
23 again, the point is not so much the Master
24 Manual alternatives are good or bad, but that
25 they are unproven, and change purely for the

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1 sake of change doesn't make sense.

2 We intend to submit comprehensive written
3 comments before the close of the comment
4 period and we are pleased that the Corps has
5 decided to consider and hold additional
6 hearings before the end of the comment period
7 once the public has had an opportunity to more
8 thoroughly review the data that has been
9 provided, and we will continue to be engaged
10 in this important process and would welcome
11 any opportunity to discuss the various
12 alternatives or further relate our comments
13 with you, your staff or with Colonel
14 Fastabend.

15 Thank you for this opportunity this
16 evening.

17 HEARING OFFICER: Thank you, Mr.
18 Bryan.

19 MR. MOORE: Tad Kardis.

20 MR. KARDIS: Good evening,
21 Colonel, thanks again for the opportunity to
22 participate in this process.

23 My name is Tad Kardis, Missouri Attorney
24 General Jay Nixon's office. I'd like to speak
25 to you tonight about two important issues,

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1 electric power, future of public
2 participation.

3 This process is, in part, an exchange of
4 information. The Corps provides the public
5 with information and the public has an
6 opportunity to share its reaction to that
7 information with the Corps. The value of
8 public comment is dependent upon the quality
9 of information that's given to digest.

10 In St. Joseph last week I stood before
11 Colonel Fastabend and gave him an example of
12 how the Corps failed to provide the public
13 with understandable information about the
14 alternative effects on power plants that
15 depend on Missouri River water for cooling and
16 discharging heated water.

17 Using nothing but the Corps' own numbers
18 provided in the RDEIS summary, we translated
19 the Corps' figures from the language of
20 megawatt hours into the language of dollars.
21 Now the Corps has provided us with more
22 information, the full RDEIS, some five inches
23 of printed material. With the permission of
24 the northwest division staff, we took your
25 display copy home with us from St. Joseph. It

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1 contains more detail than the summary, but the
2 numbers just don't add up even when you
3 account for the use of yet another language,
4 ecowatt hours.

5 The summary and the Corps RDEIS give
6 different answers. As lawyers we would say
7 that the summary is a prior and inconsistent
8 statement. As representatives of Missourians,
9 we simply ask which document should we believe
10 about the impact of the alternatives on
11 thermal energy.

12 One methodology would suggest that this
13 impact to be as high as \$15 billion. We had
14 hoped for a more detailed analysis in the
15 Corps RDEIS. However, the Corps' analysis
16 assumes that these 25 power plants will simply
17 decrease power production to avoid violating
18 their permits. Would it not be logical to
19 presume that they will try to retrofit their
20 facilities? What will that cost? Will those
21 costs be passed along to electric rate
22 payers? Can the power plants finish the
23 retrofit before the first summer low? What if
24 they choose to violate their MPTS permits as a
25 cost of doing business? We hope not.

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1 Well, what affect would that have on
2 Missouri River fish and wildlife? The Corps
3 has not provided answers to these questions or
4 given us enough information to answer them for
5 ourselves. Missourians need this information
6 to participate in these process in a
7 meaningful way.

8 Indeed the process itself is valuable and
9 the people in this room are all here because
10 they see this process as a valuable one. The
11 National Environmental Policy Act or NEPA
12 requires federal agencies to prepare an
13 Environmental Impact Statement regarding major
14 federal actions significantly affecting the
15 quality of the environment. Truly a change in
16 the management of the Missouri River is a
17 major federal action.

18 Our nation's courts held that federal
19 agencies should not make these decisions from
20 behind a veil of secrecy, they must give the
21 public notice of the proposed major federal
22 action and give the public an opportunity to
23 submit relevant information that might have a
24 bearing upon the agency's decision.

25 The Corps has accepted this

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1 responsibility by preparing the Revised Draft
2 Environmental Impact Statement for potential
3 revisions to the Master Manual and engaging in
4 this process that includes public hearings
5 like the one tonight, yet the Corps seems to
6 be growing weary of this process.

7 It describes its Master Manual revision
8 as a journey that began in 1989. However, the
9 Corps sees a way to end the journey. Its name
10 is adaptive management and all the Master
11 Manual alternatives included. In fact, for
12 some reason, the Corps' publications leave the
13 distinct impression that the Corps thinks it
14 is employing adaptive management already.

15 One can try to define adaptive
16 management, but it is difficult. It is
17 impossible, however, to define with any
18 certainty what will result from adaptive
19 management. With adaptive management, the
20 Corps will be able to test hypotheses and
21 explore changes in the operation of the
22 Missouri River system. Indeed its language is
23 the language of uncertainty with jargon-like
24 flexibility, adapt, operational changes, on
25 average, and as conditions allow. In one

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1 word, vague.

2 The Corps envisions future management of
3 the river under this new scheme with an agency
4 coordination team made up of primarily federal
5 biologists. In other words, the United States
6 Fish and Wildlife Service. Will these
7 decisions be subject to public participation,
8 peer review and judicial review? If they will
9 not, that course will surely violate NEPA.
10 With all this flexibility, we wonder if any of
11 us will ever have this opportunity to
12 participate in this public process again.

13 The 2002 Master Manual may be the last
14 Master Manual. In the future, if the Corps
15 can simply make operational changes as new
16 information becomes available, they may not
17 want to embark on this journey once more.
18 Instead of venturing forth on a new journey,
19 they will river management decisions that
20 affect us here in Missouri from behind closed
21 doors.

22 The alternative to adaptive management is
23 this important process we are currently
24 participating in. What does it have to
25 offer? Only certainty, openness, fairness,

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1 accountability and predictability. Thank you,
2 Colonel.

3 HEARING OFFICER: Thank you, Mr.
4 Kardis.

5 MR. MOORE: Nelson Heil.

6 MR. HEIL: If I could, I'd like
7 to read this and then give you the paper, this
8 is the only copy I have tonight.

9 This is a copy of a letter that we have
10 sent in on October 29th to the Corps, and I'm
11 the southern commissioner of Carroll County
12 and I represent David Martin, the eastern
13 commissioner and Donald Batrim (phonetic), a
14 western commissioner.

15 The Carroll County Commission does hereby
16 go on record as being in opposition to the
17 spring rise low summer and fall rise which is
18 the split season for the following reasons.

19 Number one, the increased releases most
20 surely will put water against levees
21 regardless of normal runoff below Gavins
22 Point. And number two, the seep water from
23 this high river will prevent many fields from
24 being planted.

25 Thank you for your time.

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1 HEARING OFFICER: Thank you, Mr.

2 Heil.

3 MR. MOORE: Tim Brinker.

4 MR. BRINKER: Good evening,

5 Colonel, ladies and gentlemen, my name's Tim

6 Brinker, I'm a lowly city councilman from a

7 little town called Washington, Missouri. I

8 have been a councilman for eight years,

9 unfortunately, I don't have staff so that I

10 can have somebody come up here and speak for

11 me so I've got to do that myself.

12 I also happen to be chairman of the

13 Washington, Missouri Riverfront Preservation

14 and Improvement Committee. That's an advisory

15 committee utilized to do just as our title

16 indicates, preserve and improve our Missouri

17 River frontage.

18 Washington, Missouri enjoys being the

19 busiest port/access on the Missouri River

20 between St. Louis, Missouri and Omaha,

21 Nebraska. That relates to anywhere from 100

22 to 300 boats per weekend in season. We're

23 located at mile marker 65 to 70 if you want to

24 come visit us.

25 Washington is primarily a recreational

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1 use community, but also has commercial uses as
2 well on the river via a sand plant and
3 concrete manufacturing facility in Franklin
4 County concrete.

5 Washington has a riverfront park that
6 we're extremely proud of consisting of many
7 pavilions, acres of grass, large parking
8 areas, a four-lane boat ramp and a new
9 four-slip courtesy dock, many, many private
10 docks as well as a brand new half
11 million-dollar riverfront trail that stretches
12 2.7 miles along the Mighty Muddy Mo.

13 We're also considering another very
14 substantial investment in a full-service still
15 water marina, perhaps one of the largest in
16 the span I mentioned earlier.

17 Washington is concerned about water level
18 consistency so as to protect and potentially
19 enhance what we consider to be our community
20 crown jewel.

21 I wish to make it known that our concerns
22 are very real. Like a lot of other
23 communities along the Missouri River,
24 Washington has been adversely affected in the
25 past by floods typically occurring in late

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1 spring or early summer, coincidentally, the
2 similar time span that the plans indicate
3 higher volume releases. We ask that the Corps
4 please take into consideration this very
5 strongly and take action to assure this
6 consistency is achieved and maintained.

7 The City of Washington has always enjoyed
8 a positive working relationship with all
9 agencies represented here this evening and
10 looks forward to continued positive
11 relations.

12 Thank you and have a good one.

13 HEARING OFFICER: Thank you, Mr.
14 Brinker.

15 MR. MOORE: John Reddy.

16
17 (Whereupon Mr. Reddy read a prepared
18 statement, which is attached to the
19 transcript.)

20
21 HEARING OFFICER: Thank you, Mr.
22 Reddy.

23 MR. MOORE: Charles Scott.

24
25

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1 (Whereupon Mr. Scott read a prepared
2 statement, which is attached to the
3 transcript.)

4

5 HEARING OFFICER: Thank you, Mr.
6 Scott.

7 MR. MOORE: Rick Hayes.

8 MR. HAYES: Good evening, my
9 name's Rick Hayes, I'm a representative from
10 the Brunswick/Dalton Drainage District. I
11 live and farm near the Missouri River and the
12 Grand and the Chariton. I farm land that my
13 dad has farmed for years and that's where our
14 living is. I'm representing our district and
15 also many farmers.

16 Our livelihood is farming this land. If
17 the river that you're wanting the spring rise
18 on, that's our most critical time getting our
19 crops planted. We need a normal to below
20 normal river stage for our land to drain. We
21 cannot, we just cannot accept anything less
22 than that. You want this rise and you're
23 trying to save this fish, I mean, we're out
24 here trying to make a living. We just can't
25 uproot our families and move them a hundred

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1 miles away from the river, we just cannot do
2 that, you know, in our type of farming.

3 We just wanted you to know that we
4 understand all the pressures you have, wanting
5 to you do something besides what you have
6 always done. We think you've done a good job
7 in the past, but we'd like more. I want to
8 stress we cannot take any less than we have
9 already have.

10 Thank you.

11 HEARING OFFICER: Thank you, Mr.
12 Hayes.

13 MR. MOORE: Ellen Duke.

14 MS. DUKE: Good evening, my name
15 is Ellen Duke, I live in Lee's Summit,
16 Missouri and I'm speaking tonight as a private
17 citizen.

18 I grew up on a farm in Indiana so I know
19 the importance of nature and I know the
20 importance of watching what the river
21 naturally does. So I am speaking in support
22 of flexible flow. I think it's very important
23 to pay attention to what nature provides, not
24 just what human beings provide. So with this
25 in mind, I've carefully read the U.S. Fish and

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1 Wildlife Service proposals for flexible flow
2 and I believe it is totally worthy of our
3 action, and I appreciate your consideration
4 tonight.

5 HEARING OFFICER: Thank you, Miss
6 Duke.

7 MR. MOORE: Roger Clark.

8 UNIDENTIFIED VOICE: He stepped
9 to the restroom.

10 HEARING OFFICER: We'll catch him
11 in a minute.

12 MR. MOORE: Michael Wilson.

13 MR. WILSON: Good evening. I'm
14 Michael Wilson, I live in Raytown, Missouri
15 I'm a member of the Sierra Club and I'm
16 representing the Missouri River.

17 I've been around a long time, a lot
18 longer than anybody sitting here tonight.
19 I've been flowing down through this land that
20 isn't -- wasn't called Missouri for a long
21 time and so when we say we're representing
22 Missouri, we're not really representing the
23 land or me, this river called the Missouri
24 now.

25 I'm going to keep on flowing and a long

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1 time after everybody in this room is gone.

2 And I would like to be healthy and I would
3 like to be alive. I would like to bring a
4 real future for the people who inhabit this
5 land in the future.

6 I'm really thankful that the U.S. Army
7 Corps of Engineers has come on the scene to
8 take up my cause, because you're representing
9 a much bigger picture than the State of
10 Missouri, you're representing me, the Missouri
11 River.

12 As I look at one of the fact sheets, one
13 of the senators mentioned common sense. I'm
14 not sure what that means in their context, but
15 just from an economic point of view, national
16 economic point of view, the proposal that is
17 advocated by the State of Missouri and the
18 senators that have testified has the lowest
19 economic value. So from what I think is
20 common sense, flexible flow which comes much
21 more closer to what I've always done before
22 and would like to do in the future works best
23 for me. It works best for the future, it
24 works best for your children. It's not about
25 private property. I've been flowing long

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1 before there was any private property. It's
2 too bad that it prevents people from adjusting
3 to the flow, but I've always had flexible
4 flow. That's natural and it's healthy.

5 HEARING OFFICER: Thank you, Mr.
6 Wilson.

7 MR. MOORE: Ronald McNeall.

8 MR. MCNEALL: Good evening. My
9 name is Ronald McNeall and I'm an agriculture
10 producer from Chariton County near
11 Keytesville, Missouri, I produce corn,
12 soybeans and wheat.

13 These meetings are seeming to become a
14 regular ritual as we were only a short time
15 ago doing the same thing again. I'm here
16 tonight representing the Missouri Corn Growers
17 Association of which I am a member of the
18 Board of Directors.

19 MCGA is a grass root organization
20 representing corn growers across Missouri.
21 MCGA will continue to support the current
22 water control plan, because it is the only
23 feasible alternative presented by the Corps of
24 Engineers. All of the other alternatives that
25 are being presented would be absolutely

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1 devastating to agriculture.

2 We are opposed to higher reservoir levels
3 in the upper basin lakes. Increased reservoir
4 levels reduce the water available and flood
5 control available to the lower basins.

6 Managing the Missouri River flow based on
7 the need of upstream recreational and other
8 interests goes against the original intent of
9 Congress to manage the river for multiple
10 interests where flood control and navigation
11 was the primary intent.

12 We're also adamantly opposed to what is
13 referred to as the spring rise. First,
14 increasing water releases would flood or
15 decrease drainage on thousands of acres in the
16 Missouri River bottoms. The Corps and the
17 Fish and Wildlife Service claims they can
18 curtail water releases from Gavins Point Dam
19 if downstream flooding occurs. I would like
20 to know how such a claim can be made when
21 professional weather forecasters can't even
22 accurately forecast rain one day at a time let
23 alone the amount that will fall within a given
24 area. On top of that, it takes from eight to
25 eleven days for water to travel from Gavins

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1 Point to the mouth of the Missouri to St.
2 Louis.

3 Once water is released from Gavins Point,
4 it cannot be stopped or it cannot be
5 recalled. Therefore, this proposed control
6 flood would be devastating not only for
7 potential flooding, but also to late planting
8 due to internal drainage problems. Everyone
9 knows the spring period is the normal time for
10 excessive rainfall.

11 I farm on the Chariton River about six
12 miles where it empties into the Missouri
13 River. Our internal drainage is blocked not
14 only when the river is bank full, but also
15 when the Missouri level is raised four to six
16 feet above normal. When we go through a long
17 period of high water flow with several rain
18 fronts moving through, it spells internal
19 flooding problems. Two weeks of flood gates
20 closed in April and May can be disastrous.

21 It is also proposed that these increased
22 spring flows would be offset in the late
23 summer by a split navigation season. During
24 July through September water releases would
25 fall below levels needed to maintain

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1 navigation. This would end navigation on the
2 Missouri River. We hear reports of reduced
3 navigation on the river now, but who is going
4 to commit to long-term navigation when we keep
5 navigation in doubt.

6 As you know, barges are a low cost
7 transportation alternative for agriculture,
8 commodities and inputs. As important, barge
9 transportation places competitive pressure on
10 reasonable rail rates. Railroads can only
11 raise rates to the point where they start to
12 push traffic onto alternative modes of
13 transportation, for example, barges.

14 It has been demonstrated many times that
15 in areas throughout the country that do not
16 have access to barge transportation, rail
17 rates are higher. In their analysis, the
18 Corps estimates that barge competition reduces
19 the rail rates in the Missouri basin by up to
20 \$200 million annually. The importance of
21 barge competition is further heightened as the
22 rail industry continues to consolidate.

23 The Missouri River is also a major source
24 of water for the Mississippi River. During
25 the drought of 1988, the Missouri River

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1 discharge accounted for 63 percent of the
2 water flowing past St. Louis from July through
3 October. If planned flow reduction by the
4 Corps would coincide with another drought,
5 navigation on the upper Mississippi would be
6 interrupted costing the nation's farmers and
7 industries millions of dollars a day.

8 Thank you.

9 HEARING OFFICER: Thank you, Mr.
10 McNeall.

11 MR. MOORE: Roger Clark.

12 MR. CLARK: Good evening, thank
13 you for the opportunity to speak. I represent
14 recreational interests and it seems to me the
15 good Lord managed this river for million of
16 years before the Corps of Engineers came
17 along. What we have now does not even
18 resemble what once was, and in 1993 it was
19 proven beyond a doubt that current technology
20 and the ability of the Corps to manage this
21 river is simply is not there to the extent
22 that you might like to have it.

23 What we have now is something that is
24 really not very friendly to recreational
25 users, and it's a tragedy. The reason it's a

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1 tragedy is because navigation interests, other
2 economic interests have taken highest
3 priority. It is not only three endangered
4 species, it's million of water foul that use
5 this river during their fall migration and
6 their spring migration. They have no place to
7 use on that river to any extent anymore. That
8 is an American tragedy and it's happening
9 right here on this river.

10 Thank you.

11 HEARING OFFICER: Thank you, Mr.
12 Clark.

13 MR. MOORE: Steve Kidwell.

14
15 (Whereupon Mr. Kidwell read a prepared
16 statement, which is attached to the
17 transcript.)

18
19 HEARING OFFICER: Thank you, Mr.
20 Kidwell.

21 MR. MOORE: Lanny Meng.

22
23 (Whereupon Mr. Meng read a prepared
24 statement, which is attached to the
25 transcript.)

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1

2

HEARING OFFICER: Thank you, Mr.

3

Meng.

4

MR. MOORE: Steve Ewert.

5

MR. EWERT: My name is Steve

6

Ewert and I'm a Missouri River bottom farmer,

7

and my brothers are here and a lot of my

8

friends are here, and I want to thank the

9

Corps of Engineers for what they've done for

10

the river over the last decades.

11

It's been said tonight that we can't

12

control the river, that we've diminished the

13

worth of the river by the fact that we have

14

controlled it. I don't think anything could

15

be further from the truth. If you read

16

accounts of the Missouri River by Mark Twain

17

or some of the people that wrote about it in

18

the early days, the Missouri River was a

19

worthless stream. It could not be depended on

20

for water, it could not be depended on for

21

navigation, it flooded, it went dry, and we've

22

had whole industries grow up around this

23

river.

24

Every 50 miles up and down the Missouri

25

there's a power plant, we heard from those

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1 guys tonight. They've got to have a stable
2 river. I'm just a small piece of the
3 industry. I farm on the Missouri River and I
4 need a stable river, too, in the spring.

5 I take umbrage with some of your numbers
6 in your study when you point out that there
7 would be a few million dollars worth of damage
8 to Missouri crops and the alternatives that
9 raise the river level, and I just do that by
10 common sense. I'm not a scientist and I'm not
11 an accountant, but I know what it costs me
12 when the river is three feet higher than my
13 flood gates and I have to pump the water out
14 or I lose a crop of soybeans and I have to
15 replant it. And I think if you multiply that
16 by thousands of times up and down the river by
17 people that are in the same boat I am, that a
18 few million dollars wouldn't come close to
19 covering the economic damage of a three foot
20 rise in the river at the wrong time.

21 The other thing I think, you've tried to
22 apply common sense to some of these things and
23 I really kind of think the pallid sturgeon is
24 a red herring of some sort, because I've been
25 on the river for 20 years now and I fail to

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1 understand what an artificially created three
2 foot rise that the Corps would create, what
3 benefit that would be to the pallid sturgeon
4 that mother nature does not already provide.

5 Living on the river and being so
6 concerned with river levels, when a thunder
7 storm comes through upstream somewhere, I see
8 rises and falls of five, ten, fifteen feet all
9 the time. Now, this three foot rise, it's
10 three feet of Kansas City, I think, is what
11 the 15 to 20,000 cubic feet per second would
12 make. I don't see what the difference is
13 between that three foot artificial rise and
14 the ten foot or five foot or three foot rise
15 provided by a thunder storm, and that happens
16 real regularly every spring. And I think it's
17 kind of presumptuous of us to think that we
18 can create a three foot rise that's going to
19 be a benefit that mother nature is not already
20 doing by letting it rain.

21 That's just kind of a common sense
22 observation. Like I said, it's not from a
23 scientist or anything, but it just seems to me
24 that water is water and -- whether it came
25 from Gavins Point, and I think most of the

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1 people here are concerned what happens at
2 Gavins Point.

3 If there needs to be some unbalancing of
4 the reservoirs above Gavins Point to create
5 growth along the banks, that's understandable,
6 possibly doable. But as far as most of the
7 people in this room, we're concerned about
8 what happens below Gavins Point, obviously,
9 because that's what's going to make a
10 difference to us. And I don't think that that
11 three foot rise is going to make a bit of
12 difference in the pallid sturgeon and I defy
13 somebody to tell me why that that artificial
14 rise is more beneficial than a good thunder
15 shower that raises the river five feet and
16 then drops it down five feet. I mean, that's
17 basically doing the same thing, it happens
18 every year.

19 Thank you.

20 HEARING OFFICER: Thank you, Mr.
21 Ewert.

22 MR. MOORE: Robert Vincze.

23

24 (Whereupon Mr. Vincze read a prepared
25 statement, which is attached to the

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1 transcript.)

2

3 HEARING OFFICER: Thank you, Mr.

4 Vincze.

5 MR. MOORE: Dan Cassidy.

6

7 (Whereupon Mr. Cassidy read a prepared

8 statement, which is attached to the

9 transcript.)

10

11 HEARING OFFICER: Thank you, Mr.

12 Cassidy.

13 MR. MOORE: Bob Sherrick.

14

15 (Whereupon Mr. Sherrick read a prepared

16 statement, which is attached to the

17 transcript.)

18

19 HEARING OFFICER: Thank you, Mr.

20 Sherrick.

21 MR. MOORE: Jeffrey McFadden.

22 MR. McFADDEN: Colonel, guests,

23 thank you for this opportunity. My name's

24 Jeffrey McFadden, I'm a lifelong Missourian,

25 grew up in this basin. I'm an independent

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1 businessman in Missouri, but I speak tonight
2 as what is commonly known as a river rat. The
3 Missouri river is the place I love most of
4 anyplace on earth.

5 What we have here is a river that's been
6 taken from the many and given to the few at
7 public expense, this is a problem. This
8 evening we've talked about flood control.
9 We've been threatened with the flood of 1993,
10 but the flood of 1993 was a summer flood which
11 occurred during a time when the Corps' current
12 water control plan maintains the river at
13 unnaturally high levels, possibly having
14 exacerbated that flood.

15 The Missouri River flooded in 1903 and in
16 1908. It flood in 1944 resulting in the
17 passing of the Pick Sloan Plan. It flooded
18 again in '51, and Colonel Pick said if this
19 plan were in place, a flood like this could
20 never happen again. It flooded in '93, right
21 on time.

22 The current water control plan has been
23 unable to even alter the cycle of major
24 floods. It has, however, eliminated the cycle
25 of small healthy floods.

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1 We've heard about the economy of the
2 State of Missouri. I'm sure everyone in this
3 room has been around the Lake of the Ozarks
4 and seen the bustling economy, the high
5 property values, the vast economic
6 opportunities for small businessmen, bait
7 stores, restaurants. Imagine for a moment if
8 we had the Lake of the Ozarks at Kansas City
9 and at Saint Louis, the Lake of the Ozarks at
10 Jefferson City and at Columbia. The Lake of
11 the Ozarks at St. Louis, we have it.

12 We have the Missouri River. The Missouri
13 and Mississippi Rivers in combination are the
14 State's largest water resource, larger than 15
15 of the State's largest reservoirs combined,
16 but we have taken this and we have made it
17 small and we have made it fast and it
18 frightens people and they're afraid to go use
19 it.

20 So we don't have the economic
21 opportunities of having the Lake of the Ozarks
22 at every major state. The Missouri River is
23 so vast that it could carry recreational users
24 from every city in this state and never look
25 crowded.

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1 We've heard that the recommendations are
2 unproven and they are, because in 40 years
3 there has been no change, there's been no
4 attempt to prove them. In my business which I
5 own, I maintain and repair telecommunications
6 equipment and computer networks for Missouri
7 businesses. I have never had one say to me I
8 want you to prove your plan before you do
9 something. I guarantee if Attorney General
10 Nixon's telephone system were down and I was
11 there to fix it, he wouldn't ask me for proof,
12 he would ask me to do something and do it now
13 and that's what I'm asking you.

14 Over 80 percent of Missouri households
15 contain one or more fishermen. Over 90
16 percent of Missouri citizens live along the
17 Missouri River, but those people can't fish
18 that river because they are afraid of it. If
19 the river were maintained in good health, we
20 would be once again able to catch the
21 150-pound catfish that were normal here when
22 the river was healthy last. We would have
23 people coming to the Missouri basin from all
24 over the country like they now go to the Gulf
25 of Mexico to catch a fish that big. All these

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1 200 million dollar figures are pocket change
2 compared to the potential recreational income
3 a healthy Missouri River would give this
4 basin.

5 Thank you.

6 HEARING OFFICER: Thank you, Mr.
7 McFadden.

8 MR. MOORE: Frank Lies.

9
10 (Whereupon Mr. Lies read a prepared
11 statement, which is attached to the
12 transcript.)

13
14 HEARING OFFICER: Thank you, Mr.
15 Lies.

16 MR. MOORE: Mary Lappin.

17
18 (Whereupon Ms. Lappin read a prepared
19 statement, which is attached to the
20 transcript.)

21
22 HEARING OFFICER: Thank you, Miss
23 Lappin.

24 We've been taking testimony for two hours
25 and thirty minutes so I think it's time for a

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1 ten-minute break. Please be back, for those
2 of you who want to participate, at 9:40.
3 Thank you.

4

5 (Off the record.)

6 (Back on the record.)

7 HEARING OFFICER: Ladies and
8 gentlemen if you would make your way back into
9 the seats, we'll resume.

10 MR. MOORE: Bill Griffith.

11 MR. GRIFFITH: Thank you,
12 Colonel. Good evening, my name is Bill
13 Griffith, I'm a resident of Leavenworth,
14 Kansas, I'm a native of Kansas and moved to
15 Leavenworth about eight years ago and began to
16 learn about the Missouri River in great
17 detail. I saw the end of the 1993 flood and
18 have followed closely the Master Manual
19 process.

20 As a father of three, I've cherished the
21 few recreational opportunities we're afforded
22 on the lower river such as an excursion out to
23 a rare sand bar.

24 As a history buff, I'm enthralled by the
25 voyage of discovery and other colorful tales

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1 of life along the Missouri and look forward to
2 the excitement of the upcoming bicentennial of
3 the Lewis and Clark expedition as do many
4 others.

5 And as chairman of the Sierra Club's
6 National River Committee, I thrill at the
7 potential biological diversity the Missouri
8 will give us if we make sound management
9 decisions and change the decades old manual
10 designed for a far different time.

11 That potential is shackled as of now has
12 led to great peril for the pallid sturgeon,
13 the least tern and the piping plover. Many
14 other fish and wildlife have seen their
15 numbers plummet as well, and the downward
16 spiral will continue if we persist along the
17 same path. I wonder how this reflects on us
18 as caretakers of the Missouri River, let alone
19 of our Earth in general. Will our hubris
20 continue by ignoring science and flying ahead
21 with business as usual.

22 The Sierra Club supports the
23 recommendations of the U.S. Fish and Wildlife
24 Service for a spring rise and lower summer
25 flows on the Missouri River. Their

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1 recommendations are based on the best
2 available science. To buttress that
3 statement, I'm comforted to see the Missouri
4 River's natural resource community members
5 from Montana, Kansas, Iowa, Nebraska, South
6 Dakota and North Dakota and Missouri has
7 stated publicly that the U.S. Fish and
8 Wildlife biological opinion is biologically
9 sound and scientifically justified.

10 David Golat, a University of Missouri
11 river ecologist was quoted in the Kansas City
12 Star last Wednesday as saying the idea of just
13 having a flood plain restoration and not
14 altering flows is a very naive point of view
15 from an ecological perspective.

16 He also mentions that there had been
17 about 130 scientific studies detailing the
18 negative impacts that can occur to fish and
19 wildlife when the river's natural flows are
20 altered. The good news that he mentions is
21 about 30 studies have showed how restoring the
22 flow and habitat can assist in the healing of
23 damaged rivers which also benefits humans
24 greatly.

25 The alternative FW 2021 in conjunction

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1 with adaptive management practices offers the
2 best and in all probability the only chance
3 for the pallid sturgeon, least tern and piping
4 plover and other imperiled species to exist
5 with us along the river.

6 The spring rise as described in FW 2021
7 will be a conservative rise in many folks'
8 view, and as the Corps' own document states,
9 will not affect any new land, it will be done
10 on an average only once every three years,
11 will not be done when there's already higher
12 water flows and will not be the cause of
13 floods on the lower river. I believe I bring
14 some sensitivity to this matter as my family
15 owns river bottom land like some of the stake
16 holders along the river.

17 The spring rise should help other
18 threatened fish species rebound as well. The
19 State of Missouri used to have a thriving
20 commercial fishery and is now down to one
21 part-time commercial fishery.

22 The increase in these species will be a
23 boon for anglers, the boating industry,
24 canoeists, hunters and other recreational
25 enthusiasts. This will pump a substantial sum

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1 of money into the basin assisting local
2 economies in garnering a sustainable growth.

3 I find it interesting that although the
4 recreation is not emphasized by the Corps and
5 navigation is, that recreation brings in much
6 more money. Think about the economic boost if
7 we do more to emphasize recreation.

8 The lower summer flows will have added
9 benefits of assisting recreation as well as
10 more folks getting out on river on the newly
11 created sand bars. This again will bring
12 boaters, canoeists and campers down to the
13 river instead of having them avoided as they
14 do now. I look forward to the day I can take
15 my children out in a canoe on the Missouri
16 River and not feel they are in danger.
17 Stopping and exploring a sand bar and finding
18 a camp site to pitch a tent on is something I
19 would cherish as a memory that would last a
20 lifetime.

21 I'm also heartened to see that 2021 will
22 assist Mississippi River navigation where the
23 vast flow of the barge transportation occurs.
24 It will save \$7.3 million per year which is an
25 improvement of 16 percent.

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1 I also note that it increases hydropower
2 benefits by 2 percent overall and supports the
3 Missouri River barge navigation in the
4 critical spring and fall periods when most
5 agricultural products are shipped.

6 Given the benefits to fish and wildlife,
7 the recreation industry, the increase in
8 tourism that will follow, the hydropower
9 benefits, the benefits to the Mississippi
10 River navigation and the high level flood
11 protection, this brings added clarity to the
12 selection of FW 2021 as the best alternative
13 for the Corps to implement.

14 Thank you.

15 HEARING OFFICER: Thank you, Mr.
16 Griffith.

17 MR. MOORE: Alex Harris.

18 HEARING OFFICER: Alex Harris.

19 (Mr. Alex Harris is not present.)

20 MR. MOORE: Karen Uhlenhute.

21 MS. UHLENHUTE: That was brave of
22 you to try that last name, you actually did a
23 pretty good job of it, it's Uhlenhute. And I
24 guess I would say I'm here representing the
25 pallid sturgeon, the least terns, the piping

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1 plovers, the people with binoculars, the
2 people with canoes and kayaks. And, you know,
3 I'm really distressed when I hear people get
4 up from all those congressional offices and I
5 realize that not one of them is speaking for
6 me or a bunch of other people that I know out
7 here.

8 You know, there are a lot of us who are
9 just really, really unhappy with the river
10 that runs through our town and through our
11 state with the state that it has reached after
12 60 years of management by the Corps of
13 Engineers. I actually got up close and
14 personal with the river several years ago, I
15 went on a short canoe trip just east of town
16 and it was kind of scary like Jeffrey McFadden
17 said. You moved very, very quickly and
18 there's no way to stop. I mean, there's
19 nothing to stop on, you move very fast, and I
20 remember vividly holding very tightly on to a
21 tree root and that was the only place that I
22 could slow down at all. There's no bound
23 water, there's no side channels, there's no
24 place where the water is going slower than, I
25 don't know, five or six miles per hour or

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1 whatever it is. And I feel sorry for anything
2 that's in that water trying to cut it, because
3 I think it's a really tough -- it's a tough go
4 down there.

5 But anyway, I think that we were really
6 missing the boat on managing this river,
7 because I think that this could be a much more
8 friendly river to recreation and I think there
9 are many people who really want to recreate on
10 this river, but it is kind of difficult in a
11 number of ways.

12 And I think that the reason we're missing
13 the boat on these small boats is that we're
14 too fixated on the really big boats, the
15 barges which, frankly, you very seldom see on
16 this river. I think most of us know that the
17 barge industry is very close to a fantasy on
18 this river, and I just continue to be amazed
19 at why it is that we manage the river for a
20 very inconsequential industry. And frankly, I
21 have to guess that it's because they give a
22 lot of money to Congress and people like me
23 don't, and I really have a problem with the
24 system working that way.

25 I know that the Corps, at least people

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1 keep telling that the Corps is required by
2 congress to manage this river for a number of
3 purposes which unfortunately seem to be at
4 cross purposes. And it seems to me that for
5 about 60 years this river has been managed
6 largely for a barge industry that has only
7 gotten smaller and smaller and smaller. And I
8 think that it is time to give a higher
9 priority to the other uses that apparently are
10 also mandated by Congress, particularly
11 recreation on the lower river and habitat for
12 wildlife.

13 I think that if we really had a
14 recreational resource going through this town
15 and across this State, that we would make this
16 city that prides itself on being very liveable
17 even more liveable and ditto for the entire
18 state.

19 I've heard people tonight talk about
20 their concerns about flood control and I guess
21 I would take that more seriously except for
22 things like having read in the Star the other
23 day that I think we're about to spend about
24 \$50 million in federal tax money to build a
25 levee around a piece of bottom land property

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1 in Riverside so that we can now build, I
2 guess, some industrial facilities. And
3 apparently, we're not learning the lesson
4 here, that we have to back off from the river
5 instead of invading it more with human
6 activity of the wrong sort.

7 I've also heard people talk about
8 unproven science here and I think the only way
9 to prove the science is to give it a try, so
10 let's do that in the form of GP 2021.

11 Thank you.

12 HEARING OFFICER: Thank you, Miss
13 Uhlenhute.

14 MR. MOORE: Ron Gibson.

15
16 (Whereupon Mr. Gibson read a prepared
17 statement, which is attached to the
18 transcript.)

19
20 HEARING OFFICER: Thank you, Mr.
21 Gibson.

22 MR. MOORE: Colleen Nunnelly.

23 MS. NUNNELLY: Good evening,
24 gentlemen. I'm not here to talk about
25 acronyms or flow rates, I want to talk about

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1 my dad for a few minutes.

2 My father grew up near the river, I grew
3 up hearing him talk about being on the river
4 in a boat. I heard him talk about the flocks
5 of birds and I heard him talk about farming.
6 And, in fact, watched him farm some bottom
7 land on the river near Hermann. Sure,
8 sometimes he didn't have a crop, but he farmed
9 and he knew that that was one of the things
10 that the river brought, with its bounty, it
11 brought danger. I've been on that river in a
12 canoe, but unlike my dad and his friends when
13 he was a child, I had to be marshalled and
14 guarded by power boats who went along to be
15 sure that we weren't swept away by the river.

16 I want the opportunity for me and for
17 others to be on that boat in a canoe, visiting
18 on that river in a canoe or a kayak to be able
19 to fish, to see the flocks of birds again. I
20 want the opportunities that have been lost to
21 my father's children and grand children
22 through -- and it's been lost in one
23 generation of damning and channeling the
24 river.

25 My family went camping without my father,

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1 who is no longer living, last month, and we
2 wanted to be on a river, we had to go to
3 southern Missouri to do that to feel safe. I
4 want to see wildlife endangered species come
5 back and I want to return to the river here,
6 to the Missouri River.

7 The flexible flow rate will accomplish
8 this and it will bring enhanced benefits to
9 many along the river.

10 Recreation brings significant income to
11 property owners along the Missouri River as it
12 has done to those along the Katy Trail.
13 Cities that have turned their faces to the
14 river prosper as they watch and use the
15 river.

16 I would like the next generations to have
17 returned to them those treasures that my dad
18 had.

19 Thank you.

20 HEARING OFFICER: Thank you, Miss
21 Nunnelly.

22 MR. MOORE: Richard Coleman.

23 HEARING OFFICER: Mr. Richard
24 Coleman.

25 (Mr. Richard Coleman is not present.)

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1 MR. MOORE: Linda Hanley.

2 MS. HANLEY: Thank you. My
3 name's Linda Hanley, I'm not a lawyer, a
4 politician or a scientist, but I am a user of
5 the river.

6 The lady who just spoke should come with
7 us sometime, we use the river now in canoes
8 and kayaks. However, I agree that the river
9 has changed in the last 30 years that I've
10 been on it. The sand bars are disappearing if
11 not already totally gone.

12 The years in the early 70s, we canoed
13 from Yankton, South Dakota at Gavins Point to
14 Kansas City, from Kansas City on to St. Louis
15 in canoes, camped on beautiful sand bars. We
16 don't have that anymore.

17 It's unrealistic to think that we'll go
18 back to the river that Lewis and Clark saw.
19 None of us would want to, we wouldn't have our
20 power our water our sewage disposal and we
21 would have very reduced flow sometimes and
22 floods. We still have reduced flow and
23 floods. However, with the adaptive management
24 as they call it, we can keep that to a
25 minimum.

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1 With the attitude that we've got to do it
2 the way it's been done because it's always
3 been done that way is throwing new science out
4 the window and I would like to see -- we need
5 a change.

6 I'm not a scientist again, I can't say
7 which program is the best, but I'm sure there
8 are many minds here who are working on that
9 and have much more knowledge than I do, but
10 definitely we need to try something new.

11 The thing we have to realize is that
12 there are extreme opposite opinions and
13 extreme difference in interests amongst the
14 people involved in this, but cooperation and
15 comprehension of the impact that these choices
16 are going to have on future generations of not
17 only pallid sturgeon and plovers but of people
18 as well. And we must realize there must be a
19 compromise that will bring the best to as many
20 people as possible.

21 None of us want to see a farmer lose his
22 crop nor a business lost due to lack of
23 transportation. But everyone is going to have
24 to compromise for a better solution in the
25 end.

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1 Thank you.

2

3 HEARING OFFICER: Thank you, Miss
4 Hanley.

5 MR. MOORE: Jamie Mierau.

6

7 (Whereupon Ms. Mierau read a prepared
8 statement, which is attached to the
9 transcript.)

10

11 HEARING OFFICER: Thank you, Miss
12 Mierau.

13 MR. MOORE: Charles Benjamin.

14

15 (Whereupon Mr. Benjamin read a prepared
16 statement, which is attached to the
17 transcript.)

18

19 HEARING OFFICER: Thank you, Mr.
20 Benjamin.

21 MR. MOORE: Joe Lamothe.

22

23

24 (Whereupon Mr. Lamothe read a prepared
25 statement, which is attached to the

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1 transcript.)

2

3 HEARING OFFICER: Thank you, Mr.

4 Lamothe.

5 MR. MOORE: Chuck Osborn.

6 HEARING OFFICER: Mr. Chuck

7 Osborn.

8 (Mr. Chuck Osborn is not present.)

9

10 MR. MOORE: Ron Cook.

11 HEARING OFFICER: Mr. Cook.

12

13 (Mr. Ron Cook is not present.)

14

15 MR. MOORE: Tom Hanley.

16 MR. HANLEY: Hello, my name is

17 Tom Hanley and my primary interest is in

18 recreation and access to the Missouri River in

19 the stretches above and below Kansas City, but

20 that's not what this meeting is about. It's

21 about how the Corps of Engineers is going to

22 control its six dams.

23 The current plan favors only the barge

24 industry which is very minuscule on the

25 Missouri River. Most of the barge industry is

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1 on the Mississippi River and the Ohio River.

2 And to suggest that the fact that there is a
3 barge industry in any way affects the rates on
4 railroad traffic or trucking traffic, I think
5 is not valid.

6 The five other plans presented in the
7 Corps proposals here in the Environmental
8 Impact Statement appear to benefit fishing,
9 boating, wildlife, recreation, and even reduce
10 potential flooding in the summer months. The
11 modified plan for the upper basin region
12 clearly benefits those states. They, in fact,
13 are -- been negatively impacted by very low
14 water levels in their recreational
15 industries.

16 The key issue in this matter is the
17 potential of downstream flooding in the
18 Missouri or State of Missouri. And the crux
19 of the issue is can the Corps handle the
20 spring rise once every three years as proposed
21 in these GP plans.

22 Are they able to raise the river for up
23 to three feet during four weeks once every
24 three years? They're not going to let this
25 water all out at one time, they are going to

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1 let it out over a period of four weeks and
2 even though you can't predict, as we have
3 heard earlier speakers say it takes ten days
4 for the water to get down to St. Louis, even
5 though you can't predict the weather that far
6 ahead, I truly believe that the Corps would be
7 able to, through gauging downstream river
8 levels, to be able to accurately assess
9 whether or not they can release on a
10 particular day the amount of water required
11 for this rise.

12 Every one knows that the Missouri River
13 goes up by more than three feet or down by
14 more than three feet every year due to the
15 local rain events. And the question that a
16 lot of people ask is during the '93 flood, why
17 didn't the Corps prevent it. And the simple
18 fact is that the last dam is Yankton, South
19 Dakota and there's an awful lot of streams and
20 tributaries and water basin below Yankton,
21 South Dakota. So there's no 100 percent
22 guarantee that a flood will never occur no
23 matter what plan you use.

24 Even the farmers who farm the flood
25 plains know this. That's why all the dikes

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1 are built, that's why you see buildings on top
2 of mounds and houses on the hillsides. No one
3 can guarantee that there will never be a
4 flood. But it's time for a change. I believe
5 the Corps can pull off the spring rise once
6 every three years. Politicians and farmers
7 today we've heard say don't budge an inch,
8 don't move the river from where it is.
9 Scientific studies and speakers we've heard
10 tonight say we need to make this change in
11 order to benefit fish and wildlife. I believe
12 the truth lies somewhere in the middle and I
13 support the plan GP 1528 with a minimum spring
14 rise and a maximum summer flow and let's
15 experiment and see what happens.

16 Thank you.

17

18 HEARING OFFICER: Thank you, Mr.

19 Hanley.

20 MR. MOORE: William Gresham.

21 HEARING OFFICER: Mr. Gresham.

22

23 (Mr. William Gresham is not present.)

24

25 MR. MOORE: Franklin Pogge.

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1 (Whereupon Mr. Pogge read a prepared
2 statement, which is attached to the
3 transcript.)

4

5 HEARING OFFICER: Thank you, Mr.
6 Pogge.

7 MR. MOORE: Tom Waters.

8

9 (Whereupon Mr. Waters read a prepared
10 statement, which is attached to the
11 transcript.)

12

13 HEARING OFFICER: Thank you, Mr.
14 Waters.

15 MR. MOORE: Dennis Ollick.

16 HEARING OFFICER: Mr. Dennis
17 Ollick.

18 (Mr. Dennis Ollick is not present.)

19 MR. MOORE: M. A. Almai.

20

21 (Whereupon Mr. Almai read a prepared
22 statement, which is attached to the
23 transcript.)

24

25 HEARING OFFICER: Thank you, Mr.

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1 Almai.

2 MR. MOORE: Janet Mershon.

3 MS. MERSHON: Good evening, my
4 name is Janet Mershon, my family and I own and
5 operate a family farm in Jackson County. It's
6 about 30 miles east of here. I also serve on
7 the State Board of Directors for Missouri Farm
8 Bureau, the State's largest general farm
9 organization.

10 First I want to commend the Corps staff
11 for their perseverance and hard work. They
12 have always been willing to answer our
13 questions and listen to our concerns. For the
14 record, Farm Bureau strongly opposes the flow
15 changes now being considered. While we remain
16 hopeful that a balance can be achieved with
17 the exception of the current plan, many of the
18 options are acceptable. Many people in this
19 room have been involved in this issue since
20 its inception. In fact, Farm Bureau gave the
21 following remarks at a public hearing on the
22 Corps' preferred alternative in October of
23 1994. To farmers, the detrimental impact of
24 the plan appears obvious and very immediate
25 while some of the State environmental goals

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1 and objectives appear far more vague and hard
2 to verify. We fear that plans such as the
3 Corps' prefer alternatives fail to adequately
4 consider the inland population and only serve
5 to further undermine public support for
6 reasonable efforts to protect fish and
7 wildlife.

8 Colonel, today, seven years later, we
9 find ourselves facing the same alternatives,
10 and farmers positions has not changed.
11 Unfortunately, what started out as a debate
12 about drought management has evolved into a
13 referendum on the Endangered Species Act, an
14 attempt to expand significantly the Missouri
15 River mitigation program, an all out assault
16 on river commerce. As a result, we find
17 ourselves fighting in the halls of Congress
18 and within the walls of courthouses across the
19 country.

20 Colonel, we have members that farm in all
21 25 counties along the Missouri River. They
22 continue to struggle with extremely low
23 commodity prices and rising input cost. In
24 fact, the federal government has had to step
25 in four consecutive years with emergency

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1 economic assistance.

2 The Bush administration has indicated
3 that we must be more involved in global
4 markets. In other words, we need to be more
5 competitive. If that's the case, shouldn't we
6 be doing everything possible to enhance river
7 commerce not only on the Missouri, but other
8 rivers such as the Mississippi. Losing river
9 commerce not only eliminates an important mode
10 of transportation, but also gives the green
11 light railroads and trucking companies to
12 raise their rates. Shouldn't we be making
13 every effort to decrease the risk of flooding
14 in the fertile bottoms. Our farmers already
15 know the impact of higher flows in the
16 spring. Ask anyone who was flooded in '93,
17 '95 and as recently as this spring. The fact
18 is we already have a spring rise and don't
19 need to be a part of contemporary science
20 experiment.

21 In closing, Colonel, we are opposed to
22 any change. We believe there are alternatives
23 that could enhance aquatic habitat without
24 major system modifications, without massive
25 new land acquisition programs, without

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1 significant increases in energy cost, without
2 controlled flooding and without out-of-basin
3 transfers. For this reason at this time, we
4 have no choice but to oppose the alternatives
5 currently under consideration.

6 Thank you.

7 HEARING OFFICER: Thank you, Miss
8 Mershon.

9 MR. MOORE: Linda Waters.

10

11 (Whereupon Ms. Waters read a prepared
12 statement, which is attached to the
13 transcript.)

14

15 HEARING OFFICER: Thank you, Miss
16 Waters.

17 MR. MOORE: Hal Swansy.

18 MR. SWANSY: Good evening, sir,
19 my name is Hal Swansy. I and three people
20 that are my landlords, we're the people that
21 everyone wants to experiment against or on.

22 Sir, I farm on the Missouri River as well
23 as the Platte River which is a tributary of
24 the Missouri River. This is my first year on
25 the Missouri River, but my family and I have

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1 farmed on the Platte River for some 50 years.
2 Right now I farm more than 1,400 acres on the
3 Platte River and, sir, I can tell you that we
4 suffer much greater crop loss in any time
5 there's a rise on the Missouri River any time
6 we have local flooding. In your plan to
7 increase the spring rise will no doubt
8 decrease any family's income as well as for
9 the widows I farm for. Sir, I'm asking to you
10 develop a good plan.

11 Another point I would like to touch base
12 on that was brought up, there's been several
13 people that have been expressing concerns
14 about loss of wildlife along the river. In
15 Platte County the Missouri Department of
16 Conservation owns several thousand acres along
17 the Platte River and the wildlife there is
18 well established and doing quite well and I'm
19 feeding them a great amount, so they're doing
20 quite well at my expense. Even on my own
21 farm, we have established a wetland area for
22 wildlife. We farmers are not all a bad lot.

23 Thank you for your time, sir.

24 HEARING OFFICER: Thank you, Mr.
25 Swansy.

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1 HEARING OFFICER: I'm going to go
2 through these cards to make sure that folks
3 who signed these have an opportunity to
4 speak. I just want to make sure we didn't
5 miss anybody. Again, Mr. Dennis Ollick. Mr.
6 William Gresham. Mr. Ron Cook. Mr. Chuck
7 Osborn. Mr. Richard Coleman. Mr. Alex
8 Harris.

9 Okay. Then I will ask this
10 question, is there anyone else who wishes to
11 testify this evening?

12

13 (No response.)

14

15 HEARING OFFICER: Let the record
16 reflect the negative response.

17 Thank you ladies and gentlemen for
18 participating in this process. Good evening.

19

20 (Hearing concluded at 10:40 p.m.)

21

22

23

24

25

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1 STATE OF MISSOURI)

2) ss

3 COUNTY OF PETTIS)

4 I, Thomas Roberts, Certified Shorthand
5 Reporter and Notary Public of the State of
6 Missouri do hereby certify that the foregoing
7 transcript is a true and correct transcript of
8 my original stenographic notes.

9 I further certify that I am neither
10 attorney or counsel, nor related to any party
11 to said action, nor otherwise interested in
12 the outcome thereof.

13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my Notarial Seal this 8th
15 day of December, 2001.

16

17

18

19 _____
THOMAS ROBERTS

20 COSTS: DUE FROM: Corps of Engineers

21

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25